



J. GREGORY CORNETT

DIRECT DIAL (502) 560-4210
DIRECT FAX (502) 627-8710

gcornett@ogdenlaw.com

1700 PNC PLAZA
500 WEST JEFFERSON STREET
LOUISVILLE, KENTUCKY 40202-2874
(502) 582-1601
FAX (502) 581-9564
www.ogdenlaw.com

August 26, 2003

VIA FEDERAL EXPRESS

RECEIVED

AUG 27 2003

PUBLIC SERVICE
COMMISSION

Mr. Thomas M. Dorman
Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

**RE: *In the Matter of:* Petition of CTA Acoustics, Inc. to Retain Kentucky Utilities
Company as Power Supplier
KPSC Case No. 2003-00226
ON&W File No. 1/305**

Dear Mr. Dorman:

Enclosed please find and accept for filing the original and ten (10) copies of the Sur-Reply of Kentucky Utilities Company in Objection to Request of Cumberland Valley Electric, Inc. For Ruling on Motion for Declaration of Rights in the above-referenced action. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copy and return it to me in the self-addressed, stamped envelope provided.

Should you have any questions or need any additional information, please contact me at your convenience.

Yours very truly,

J. Gregory Cornett

JGC/

Enclosures

cc: Parties of Record (w/ encl.)
Linda S. Portasik, Esq. (w/ encl.)

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

AUG 27 2003

In the Matter of:

PUBLIC SERVICE
COMMISSION

PETITION OF CTA ACOUSTICS, INC.)
TO RETAIN KENTUCKY UTILITIES)
COMPANY AS POWER SUPPLIER)
AND FOR EXPEDITED TREATMENT)

CASE NO. 2003-00226

SUR-REPLY OF KENTUCKY UTILITIES COMPANY IN OBJECTION
TO REQUEST OF CUMBERLAND VALLEY ELECTRIC, INC.
FOR RULING ON MOTION FOR DECLARATION OF RIGHTS

* * * * *

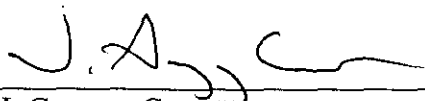
Cumberland Valley Electric, Inc. ("CVE") has filed a reply in support of its Request for Ruling in this matter. Amazingly, CVE continues to insist that its Request somehow raises an issue which has not already been ruled on by the Commission. CVE ignores the fact that its Motion for Declaration of Rights (which Motion CVE claims has never been ruled on) requested nothing more than a declaration that CVE be allowed to provide **interim** service to CTA Acoustics, Inc. ("CTA"). While the Commission did not expressly state, in its July 21, 2003 Interim Order, that CVE's Motion for Declaration of Rights was denied, it defies logic to argue that the Interim Order did not constitute a ruling on CVE's Motion. The Commission clearly denied CVE's request that it be allowed to provide interim service to CTA when it ruled that Kentucky Utilities Company ("KU"), **and not CVE**, had the right to provide that service to CTA.

CVE also continues to ignore existing precedent, Owen County Rural Elec. Coop. Corp. v. Public Service Commission, Ky.App., 689 S.W.2d 599 (1985), *disc. rev. denied*, June 5, 1985, by arguing that it has an absolute right to serve CTA. The fact that CTA is

located within CVE's current territory does not mean that CVE's right to serve the entire business park, including CTA, cannot be challenged consistent with the Certified Territories Act. Such a challenge has in fact been made here by CTA, and the Commission has set forth a procedural schedule to have the matter promptly resolved.

The Commission has already considered the issue of interim service and has ruled that KU, not CVE, should provide that service to CTA. Pursuant to the Commission's directive, KU has extended its facilities and is serving CTA without prejudice to CVE's rights concerning permanent service. There is absolutely no reason for the Commission to change course and allow CVE, rather than KU, to provide interim service to CTA.

Accordingly, CVE's Request for Ruling should be denied, and the parties should be ordered to proceed with discovery and the filing of testimony as previously directed by the Commission.



J. Gregory Cornett
OGDEN NEWELL & WELCH PLLC
500 W. Jefferson Street
Louisville, KY 40202
(502) 582-1601

Linda S. Portasik
LG&E Energy Corporation
220 East Main St.
Louisville, KY 40202

Counsel for Kentucky Utilities Company

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing was served, via U.S. Mail, postage prepaid, this 21st day of August, 2003, upon the following:

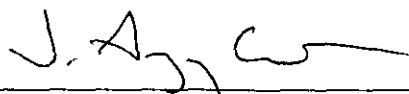
C. Kent Hatfield, Esq.
Middleton Reutlinger
2500 Brown and Williamson Tower
Louisville, KY 40202

James Tomaw, Esq.
Tomaw Law Office, LLC
606 Master Street
Corbin, Kentucky 40701

Anthony G. Martin, Esq.
PO Box 1812
Lexington, KY 40588-1812

Ted Hampton
Manager
Cumberland Valley Electric, Inc.
PO Box 440
Gray, KY 40734

R.S. Terrell
Corbin Office of Economic Development
101 North Depot Street
Corbin, Kentucky 40701



Counsel for Kentucky Utilities Co.